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Message Text

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ACTION L-03

INFO OCT-01 EUR-12 ISO-00 EB-08 TRSE-00 OMB-01 H-01
CIAE-00 INR-10 NSAE-00 JUSE-00 FCSC-01 SS-15 SP-02
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FM AMEMBASSY BONN
TO SECSTATE WASHDC 7070
INFO AMEMBASSY BERLIN
AMCONSUL MUNICH

C O N F I D E N T I A L SECTION 01 OF 02 BONN 05464

MUNICH FOR CHARIG

E.O. 11652: GDS
TAGS: PGOV PEPR CPRS GW GE US
SUBJECT: OVERLAPPING GERMAN CLAIMS

REFS: (A) BONN 4392; (B) STATE 56532

1. EMBOFF TOOK THE OCCASION OF A LUNCHEON CONVERSATION WITH RUMPF OF THE FOREIGN OFFICE ON MARCH 20 TO RAISE THE OVERLAPPING CLAIMS QUESTION. RUMPF SAID HE HAD BEEN BRIEFED ON OUR MARCH 9 DEMARCHE TO HIS ASSISTANT, ARNDT (REPORTED IN REF A) AND HAD READ THE TEXT OF THE PROPOSED USG ASSURANCE. HIS IMPRESSION, HE SAID, WAS THAT THE ASSURANCE DID NOT SAY VERY MUCH, IN THAT IT ONLY COMMITTED THE USG TO CONSULT, RATHER THAN TO ASSIST IN OBTAINING REPAYMENT FROM ANY CLAIMANTS WHO HAD RECEIVED COMPENSATION BOTH FROM THE FRG EQUALIZATION FUND AND FROM A US-GDR CLAIMS SETTLEMENT.

2. RUMPF ADDED THAT THE DRAFT ASSURANCE HAD NOT BEEN DISCUSSED WITH OTHER AGENCIES CONCERNED, PARTICULARLY WITH THE FEDERAL EQUALIZATION OFFICE (BAA), CONFIDENTIAL

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WHICH AS AN AUTONOMOUS AGENCY HAD A HIGH DEGREE OF INDEPENDENCE. HE CONFIRMED ARNDT'S STATEMENT THAT A MEETING TO DISCUSS THE US PROPOSAL WOULD BE HELD IN EARLY APRIL.

3. IN EXPRESSING HIS HOPE THAT THE USG MIGHT GO SOMEWHAT FURTHER TO MEET THE FRG POSITION, RUMPF DESCRIBED

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THE BACKGROUND AND PURPOSE OF THE FEDERAL LAW ON EQUALIZATION OF BURDENS. BECAUSE HIS EXPLANATION TO SOME EXTENT CLARIFIES THAT WHICH WE HAD GIVEN IN REF (A), WE SUMMARIZE IT HERE.

4. RUMPF SAID THAT THE US POSITION SUGGESTED THAT THE USG CONSIDERED THE EQUALIZATION LAW TO BE THE SAME AS A COMPENSATION OR RESTITUTION LAW, WHICH IT WAS NOT. NOR WERE ITS INTENDED BENEFICIARIES NECESSARILY PERSECUTEES FROM THE NAZI ERA, WHOSE CLAIMS WERE TAKEN CARE OF THROUGH OTHER LEGISLATION. THE ORIGINAL EQUALIZATION OF BURDENS LAW HAD BEEN ENACTED TO ASSIST THOSE GERMANS WHO WERE EXPELLED AT THE END OF THE WAR FROM FORMER GERMAN TERRITORIES, LEAVING THEIR PROPERTY BEHIND. TAXPAYERS IN THE FRG WERE TAXED TO CREATE THE EQUALIZATION FUND, FROM WHICH PAYMENTS WERE MADE TO THOSE GERMANS WHO CAME TO THE FRG FROM EAST PRUSSIA AND OTHER LOST TERRITORIES. THE OBJECT WAS NOT FULL COMPENSATION, AS THAT WOULD HAVE BEEN A TOTAL SHIFTING OF THE BURDEN RATHER THAN AN EQUALIZATION.

5. GERMANS WHO CAME TO THE FRG FROM THE GDR (THE FORMER SOVIET ZONE OF OCCUPATION) WERE NOT INITIALLY COVERED BY THE EQUALIZATION LAW, BUT IT WAS AMENDED IN THE 1960'S TO BENEFIT THOSE GERMANS AS WELL. THE LAW WAS

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BASED ON THE LEGAL THEORY THAT THE FRG WAS RESPONSIBLE, MORALLY AT LEAST, FOR ALL OF GERMANY. THE PROPERTY IN QUESTION WAS ONLY THAT WHICH WAS CONFISCATED OR ABANDONED AFTER THE END OF THE WAR, ALTHOUGH THROUGH THE DEVELOPMENT OF A LEGAL FICTION IT ALSO CAME TO INCLUDE PROPERTY WHICH HAD ILLEGALLY BEEN CONFISCATED BY THE NAZIS BUT TO WHICH THE ORIGINAL OWNERS THEORETICALLY RETAINED TITLE UNTIL IT WAS AGAIN CONFISCATED BY THE SOVIET ZONE OR GDR AUTHORITIES.

6. RUMPF'S POINT WAS THAT, ONCE PROPERTY TAKEN BY THE GDR CAME TO BE INCLUDED IN THE EQUALIZATION SCHEME, THERE WAS THE REQUIREMENT FOR A REPAYMENT INTO THE EQUALIZATION FUND IF ANY COMPENSATION WERE SUBSEQUENTLY OBTAINED FROM THE GDR. FOR THE USG TO BE UNWILLING TO ASSIST IN OBTAINING SUCH REPAYMENTS IF IT WAS RESPONSIBLE FOR OBTAINING THE ADDITIONAL COMPENSATION UNDER A GDR CLAIMS SETTLEMENT WOULD AMOUNT TO ENABLING THOSE CLAIMANTS WHO NOW HAPPEN TO BE US CITIZENS TO OBTAIN MORE FROM THE WEST GERMAN TAXPAYER THAN THOSE CLAIMANTS RESIDING IN THE FRG.
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7. IT WAS AGAINST THIS BACKGROUND THAT RUMPF WAS NOT OPTIMISTIC THAT THE ASSURANCES OFFERED BY THE DEPARTMENT WOULD BE SUFFICIENT TO MOVE THE BAA. WHILE THIS WAS ONLY A PRELIMINARY VIEW, HE THOUGHT THE ONLY ANSWER MIGHT LIE IN FINDING A WAY FOR THE US TO STRENGTHEN ITS ASSURANCES SOMEWHAT.
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